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DEPARTMENT OF COMMERCE

International Trade Administration

[A-552-802]

Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review, 2015-2016

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On November 9, 2016, the Department of Commerce (Department) published in the *Federal Register* the preliminary results of the eleventh administrative review of the antidumping duty order on certain warmwater shrimp from the Socialist Republic of Vietnam (Vietnam). We continue find that the mandatory respondents in this review do not qualify for a separate rate and are, therefore, considered part of the Vietnam-Wide Entity during the period of review (POR) February 1, 2015, through January 31, 2016.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Irene Gorelik, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC, 20230; telephone: 202-482-6905.

SUPPLEMENTARY INFORMATION:

On November 9, 2016, the Department published the *Preliminary Results*,¹ and gave interested parties an opportunity to comment. On November 10, 2016, Ngoc Tri Seafood Joint

¹ See *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review; 2015–2016*, 81 FR 78789 (November 9, 2016) (*Preliminary Results*).

Stock Company (Ngoc Tri) filed a case brief.² No other interested parties filed case briefs and no interested parties filed rebuttal briefs. We address Ngoc Tri's argument below.

Scope of the Order³

The merchandise subject to the order is certain frozen warmwater shrimp. The product is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) item numbers: 0306.17.00.03, 0306.17.00.06, 0306.17.00.09, 0306.17.00.12, 0306.17.00.15, 0306.17.00.18, 0306.17.00.21, 0306.17.00.24, 0306.17.00.27, 0306.17.00.40, 1605.21.10.30, and 1605.29.10.10. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description, available in the Preliminary Decision Memorandum,⁴ remains dispositive.

Analysis of Comments Received

Ngoc Tri's single argument was that the Department's instructions to U.S. Customs and Border Protection (CBP) would inappropriately conflate its name with another company within the Vietnam-Wide Entity, "Amanda Foods (Vietnam) Ltd. Ngoc Tri Seafood Company (Amanda's affiliate)," which has a similar name. Ngoc Tri requests that the Department ensure that CBP understands that this entity is distinct from Ngoc Tri and that the Department should not collapse these two entities.⁵

As an initial matter, the Department rescinded the review with respect to Ngoc Tri on July 15, 2016.⁶ In doing so, the Department subsequently issued instructions to CBP directing it to liquidate all POR entries of the subject merchandise for all the companies rescinded from

² See Ngoc Tri Case Brief, dated November 10, 2016.

³ See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam*, 70 FR 5152 (February 1, 2005) (*Order*).

⁴ See *Preliminary Results* and accompanying Preliminary Decision Memorandum at 2-4.

⁵ See Ngoc Tri Case Brief, dated November 10, 2016, at 1.

⁶ See *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Partial Rescission of Antidumping Duty Administrative Review; 2015–2016*, 81 FR 46047 (July 18, 2016).

review, which included Ngoc Tri.⁷ The Department did not rescind its review of, or liquidate entries for, “Amanda Foods (Vietnam) Ltd. Ngoc Tri Seafood Company (Amanda’s affiliate),” which remains under review and part of the Vietnam-Wide Entity (*see* Appendix I). Thus, the Department has rescinded Ngoc Tri from this administrative review, and has not conflated Ngoc Tri with any other company in its instructions to CBP. Moreover, CBP is able to contact the Department (and frequently does) with any questions regarding instructions that we issue to it.⁸

Final Determination of No Shipments

In the *Preliminary Results*, the Department determined the following companies did not have any reviewable transactions during the POR: (1) BIM Seafood Joint Stock Company; (2) Bien Dong Seafood Co., Ltd.; (3) Cam Ranh Seafoods Processing Enterprise Company; (4) Ben Tre Forestry and Aquaproduct Import Export Joint Stock Company; (5) Fine Foods Company (FFC) (Ca Mau Foods & Fishery Export Joint Stock Company); (6) Gallant Dachan Seafood Co., Ltd.; (7) Green Farms Joint Stock Company; (8) Minh Cuong Seafood Import Export Frozen Processing Joint Stock Company; (9) Quang Minh Seafood Co., Ltd.; (10) Quang Ninh Export Aquatic Products Processing Factory; (11) Tacvan Frozen Seafood Processing Export Company; (12); Trong Nhan Seafood Company Limited; and (13) Vinh Hoan Corp. As we have not received any information to contradict our preliminary finding, we determine that the above-named companies did not have any reviewable entries of subject merchandise during the POR,

⁷ The Department liquidated the POR entries of Ngoc Tri Seafood Joint Stock Company, under case reference file A-552-802-089, which is assigned solely to Ngoc Tri and not to any other company. *See* Partial Rescission Liquidation Instruction Message Number 6215301, dated August 2, 2016, available at: http://adcvd.cbp.dhs.gov/adcvdweb/ad_cvd_msgs/21629?filter_cat=ALL&filter_type=ALL&page=1&per_page=10&search=6215301.

⁸ *See, e.g., Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review*, 2014–2015, 81 FR 62717 (September 12, 2016) (*ARI0 Final*) and accompanying Issues and Decision Memorandum at Comment 12 (“CBP may inquire with the Department regarding, for example, the punctuation of a company’s name as confirmation that they are the same company without the Department having to grant separate rate status to a name that does not meet the requirements for such.”)

and intend to issue appropriate instructions that are consistent with our “automatic assessment” clarification, for these final results.⁹

Methodology

The Department conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (Act). In the *Preliminary Results*, the Department determined that, because the two mandatory respondents in this administrative review (Tan Phong Phu Seafood Co., Ltd. and C.P. Vietnam Corporation) had not responded to all portions of the questionnaire, they are ineligible for a separate rate and are part of the Vietnam-Wide Entity, subject to the Vietnam-Wide Entity rate of 25.76 percent.¹⁰ As no interested parties commented on this determination and we have not received any information since the issuance of the *Preliminary Results* that provides a basis for reconsidering this determination, we find that the mandatory respondents are ineligible for a separate rate and are, consequently, subject to the Vietnam-Wide Entity rate of 25.76 percent.

The Department’s policy regarding conditional review of the Vietnam-Wide Entity applies to this administrative review.¹¹ Under this policy, the Vietnam-Wide Entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the Vietnam-Wide Entity, the entity is not under review and the entity’s rate is not subject to change.

⁹ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011) (*Assessment Notice*); see also “Assessment Rates” section below.

¹⁰ See *Preliminary Results*, 81 FR at 78790.

¹¹ See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

Final Results of Review

As noted above, the Department finds that the two mandatory respondents have not established their eligibility for a separate rate and are considered to be part of the Vietnam-Wide Entity. Moreover, as in the *Preliminary Results*, we determined that 51 additional companies for which a review was requested have not established eligibility for a separate rate and continue to be part of the Vietnam-Wide Entity in these final results.¹²

Furthermore, the statute and the Department's regulations do not address what rate to apply to respondents not selected for individual examination when the Department limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, the Department looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for non-selected respondents that are not examined individually in an administrative review. Section 735(c)(5)(A) of the Act states that the all-others rate should be calculated by averaging the weighted-average dumping margins for individually-examined respondents, excluding rates that are zero, *de minimis*, or based entirely on facts available. Section 735(c)(5)(B) of the Act provides that, where all rates are zero, *de minimis*, or based entirely on facts available, the Department may use "any reasonable method" for assigning a rate to non-examined respondents.

In this administrative review, we have not calculated any individual rates or assigned a rate based on facts available. Therefore, as determined in the *Preliminary Results*,¹³ we will assign to the non-individually examined separate rate respondents the most recently assigned separate rate in this proceeding, which is from the immediately preceding administrative

¹² See *Preliminary Results*, 81 FR at 78790, 78792. See also Appendix I for a full list of all 51 companies and the two mandatory respondents not receiving a separate rate.

review.¹⁴ Using this method, we are assigning a separate rate margin of 4.78 percent to the 12 non-individually examined companies that demonstrated their eligibility for a separate rate.

The Department determines that the following dumping margins exist:

Exporter ¹⁵	Dumping Margins (percent)
Au Vung One Seafood Processing Import & Export Joint Stock Company	4.78
Cadovimex Seafood Import-Export and Processing Joint Stock Company	4.78
Cafatex Corporation, aka Taydo Seafood Enterprise	4.78
Gallant Ocean (Vietnam) Co., Ltd.	4.78
Investment Commerce Fisheries Corporation	4.78
Kim Anh Company Limited	4.78
Ngo Bros Seaproducts Import-Export One Member Company Limited, aka Ngo Bros	4.78
Nha Trang Fisheries Joint Stock Company	4.78
Phuong Nam Foodstuff Corp.	4.78
Taika Seafood Corporation	4.78
UTXI Aquatic Products Processing Corporation	4.78
Vietnam Fish One Co., Ltd., aka Viet Hai Seafood Co., Ltd.	4.78

¹³ See Preliminary Decision Memorandum at 11.

¹⁴ See *Preliminary Results*, 81 FR at 78790-91. See also *AR10 Final*, 81 FR at 62718.

¹⁵ Due to the issues the Department has had in the past with variations of exporter names related to this *Order*, we remind exporters that the names listed in the rate box are the exact names, including spelling and punctuation, which the Department will provide to CBP and which CBP will use to assess POR entries and collect cash deposits.

Disclosure and Public Comment

Normally, The Department will disclose the calculations used in our analysis to parties in this review within five days of the date of publication of the notice of final results in the *Federal Register*, in accordance with 19 CFR 351.224(b). However, here, the Department has applied a separate rate¹⁶ and a country-wide rate,¹⁷ which were established in prior segments of the proceeding. Thus, there are no calculations on this record to disclose.

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review. For the companies receiving a separate rate, we intend to assign an *ad valorem* assessment rate of 4.78 percent, consistent with the methodology described above. With regard to the mandatory respondents and the additional 51 companies identified in Appendix I as part of the Vietnam-Wide Entity, we will instruct CBP to apply an *ad valorem* assessment rate of 25.76 percent to all entries of subject merchandise during the POR which were produced and/or exported by those companies.

Additionally, consistent with its assessment practice in NME cases, for an exporter under review which the Department determined had no shipments of the subject merchandise, any

¹⁶ See *AR10 Final*, 81 FR at 62718.

¹⁷ See *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005, 71008 (December 8, 2004) and accompanying Issues and Decision Memorandum at Comments 6 and 10C (“We have applied a rate of 25.76 percent, a rate calculated in the initiation stage of the investigation from information provided in the petition (as adjusted by the Department).”).

suspended entries that it made under that exporter's case number (*i.e.*, at that exporter's rate) will be liquidated at the NME-wide rate.¹⁸

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from Vietnam entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) for the companies listed above, which have a separate rate, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or *de minimis*, then zero cash deposit will be required); (2) for previously investigated or reviewed Vietnam and non-Vietnam exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all Vietnam exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the Vietnam-wide Entity; and (4) for all non-Vietnam exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Vietnam exporter that supplied that non-Vietnam exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Reimbursement of Duties

This notice also serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

¹⁸ For a full discussion of this practice, *see Assessment Notice*.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: February 16, 2017

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

Appendix I

Companies Subject to Review Determined to Be Part of the Vietnam-Wide Entity

1. Amanda Foods (Vietnam) Ltd. Ngoc Tri Seafood Company (Amanda's affiliate)
2. Amanda Seafood Co., Ltd.
3. An Giang Coffee JSC
4. Anvifish Joint Stock Co.
5. Asia Food Stuffs Import Export Co., Ltd.
6. Binh Thuan Import – Export Joint Stock Company (THAIMEX)
7. Binh An Seafood Joint Stock Company
8. B.O.P. Limited Co.
9. C.P. Vietnam Corporation, aka
C.P. Vietnam Corporation (“C.P. Vietnam”), aka
C.P. Vietnam Livestock Company Limited, aka
C.P. Vietnam Livestock Corporation
10. Can Tho Agricultural and Animal Product Import Export Company (“CATACO”), aka
Can Tho Agricultural and Animal Products Import Export Company (“CATACO”), aka

- Can Tho Agricultural and Animal Products Imex Company, aka
Can Tho Agricultural Products
11. Can Tho Import Export Seafood Joint Stock Company (CASEAMEX)
 12. Cautre Export Goods Processing Joint Stock Company
 13. Coastal Fisheries Development Corporation (“COFIDEC”)
 14. Danang Seaproducts Import-Export Corporation (“Seaprodex Danang”) (and its affiliates),
aka
Danang Seaproducts Import Export Corporation (and its affiliate, Tho Quang Seafood
Processing and Export Company) (collectively, “Seaprodex Danang”)), aka
Danang Seaproducts Import Export Corporation (“Seaprodex Danang”), aka
Seaprodex Danang, aka
Tho Quang Co, aka
Tho Quang Seafood Processing and Export Company, aka
Frozen Seafoods Factory No. 32 (Tho Quang Seafood Processing and Export Company)
 15. Duy Dai Corporation
 16. D & N Foods Processing (Danang Company Ltd.)
 17. Gallant Ocean (Quang Ngai) Co., Ltd.
 18. Gn Foods
 19. Hai Thanh Food Company Ltd.
 20. Hai Vuong Co., Ltd.
 21. Han An Trading Service Co., Ltd.
 22. Hoang Hai Company Ltd.
 23. Hua Heong Food Industries Vietnam Co. Ltd.
 24. Huynh Huong Seafood Processing (Huynh Houg Trading and Import Export Joint Stock
Company)
 25. Kien Long Seafoods Co. Ltd.
 26. Khanh Loi Seafood Factory
 27. Long Toan Frozen Aquatic Products Joint Stock Company
 28. Luan Vo Fishery Co., Ltd.
 29. Minh Chau Imp. Exp. Seafood Processing Co., Ltd.
 30. Mp Consol Co., Ltd.
 31. New Wind Seafood Co., Ltd.
 32. Ngoc Chau Co., Ltd. and/or Ngoc Chau Seafood Processing Company
 33. Ngoc Sinh, aka
Ngoc Sinh Fisheries, aka
Ngoc Sinh Private Enterprises, aka
Ngoc Sinh Seafoods, aka
Ngoc Sinh Seafood Processing Company, aka
Ngoc Sinh Seafood Trading & Processing Enterprise
 34. Nhat Duc Co., Ltd. (“Nhat Duc”), aka
Nhat Duc Co., Ltd., aka
Nhat Duc Co. Ltd.
 35. Phu Cuong Jostoco Seafood Corporation, aka
Phu Cuong Jostoco Corp.
 36. Quoc Ai Seafood Processing Import Export Co., Ltd.
 37. S.R.V. Freight Services Co., Ltd.

38. Saigon Food Joint Stock Company
39. Sustainable Seafood
40. Tan Thanh Loi Frozen Food Co., Ltd.
41. Tan Phong Phu Seafood Co., Ltd., aka
Tan Phong Phu Seafood Company Ltd. (“TPP Co., Ltd.”), aka
Tan Phong Phu Seafood Co. Ltd. (“TPP Co., Ltd.”)
42. Thanh Doan Seaproducts Import & Export Processing Joint-Stock Company
(THADIMEXCO)
43. Thanh Hung Frozen Seafood Processing Import Export Co., Ltd.
44. Thanh Tri Seafood Processing Co. Ltd.
45. Thinh Hung Co., Ltd.
46. Trang Khan Seafood Co., Ltd.
47. Tien Tien Garment Joint Stock Company
48. Tithi Co., Ltd.
49. Viet Cuong Seafood Processing Import Export Joint-Stock Company
50. Vietnam Northern Viking Technologies Co. Ltd.
51. Vinatex Danang
52. Vinh Loi Import Export Company (“VIMEX”), aka
Vinh Loi Import Export Company (“Vimexco”)
53. Xi Nghiep Che Bien Thuy Sue San Xuat Kau Cantho

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